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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,870	09/22/2003	Chester White		3165

7590

05/10/2005

Chester White
P.O. Box 647
Corona, NY 11368

EXAMINER

SHRIVER II, JAMES A

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,870

Applicant(s)

WHITE, CHESTER

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 1 is rejected as understood under 35 U.S.C. 103(a) as being unpatentable over Flynn (US Patent 5,455,474) in view of Bisel et al. (US Patent 5,036,930).** Flynn discloses two longitudinally facing metallic discs (See Figs. 1-2), passing through the center of both layered discs is a vertical support (44) which allows clockwise and counterclockwise spin of said discs, perpendicular peripheral width of surfaces of said discs will be magnetized for means of interaction with stationary electromagnets of same polarity of said peripheral surfaces, said interaction will cause said magnets to mutually repel each other causing said discs to spin in opposite directions. Flynn does not disclose the magnetic motor being a means for propelling a vehicle. Bisel et al. discloses a magnetic motor being used as a means for propelling a vehicle by providing a turning power of said drive rod/shaft to cause the vehicle to be moved in either a forward or rearward direction. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to substitute the magnetic motor disclosed in Flynn for the magnetic motor disclosed in the vehicle of Bisel et al. because the examiner takes Official Notice of the equivalence of the magnetic motor disclosed in Flynn (magnetic motor with magnetic discs caused to rotate in opposing directions) and the magnetic motor disclosed in Bisel et al. (magnetic motor using magnetic repulsion to provide the reciprocating action of an internal combustion engine) for their use in the art and the selection of any of these known equivalents to

provide power for the drive shaft would be within the level of ordinary skill in the art. Either magnetic motor configuration would provide power to operate the drive shaft of the vehicle.

Response to Arguments

3. Applicant's arguments filed February 10, 2005 have been fully considered but they are not persuasive. On page 1 of Applicant's remarks, Applicant states that the electric motor disclosed in Flynn is limited to smaller entities. Examiner disagrees with this statement because a person of ordinary skill in this art would have the requisite skill and knowledge to properly size the magnetic motor disclosed in Flynn to provide the requisite propulsion force for an automobile.

4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant argues that Bisel et al. discloses an electromagnetic energy process different from the current application's invention and that Bisel et al. has far too numerous interfacing components. Finally, Applicant argues that the object of Flynn is not the same as that of Bisel et al. Examiner disagrees with Applicant's numerous arguments because the magnetic motor construction of Flynn, which has two facing metallic discs having repelling magnets, can be substituted for the reciprocating magnetic motor disclosed in Bisel et al, which powers a vehicle.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:


Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Or faxed to: (703) 872-9306 (for formal communications intended for entry). (703) 746-3852 (for informal communications directly to the Examiner).

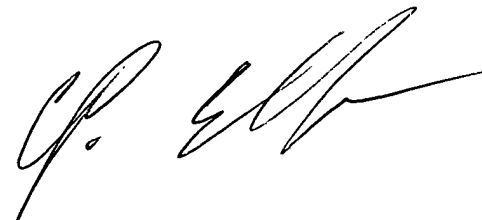
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuesday, May 03, 2005



J. Allen Shriver
Examiner
Art Unit 3618

JAS



CHRISTOPHER P. ELLIS
SUPERVISING PATENT EXAMINER
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